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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,172	10/17/2003	Kenneth M. Kane	1700-002P/FLS	9521
22831	7590	09/08/2004	EXAMINER	
SCHWEITZER CORNMAN GROSS & BONDELL LLP 292 MADISON AVENUE - 19th FLOOR NEW YORK, NY 10017			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,172

Applicant(s)

KANE ET AL.

Examiner

Jason M Han

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) 1-3,8 and 10-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "59" has been used to designate both spring panels and openings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: On Page 9, first paragraph, the reference number (59) with respect to openings and spring panels of said retaining clip should be corrected as mentioned in the objection to the drawings.

Appropriate correction is required.

Claim Objections

3. Claims 1, 2, 3, 8, 10, and 11 are objected to because of the following informalities: the term "generally" renders the limitation as indefinite because it lacks

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some standard for measuring the degree intended. Please use positive and definite language. Otherwise, the claims may be broadly interpreted [MPEP 2111].

4. Claims 2 and 10 are objected to because of the following informalities: The limitations are unclear and indefinite – the examiner requires elucidation regarding said wing-like elements. Are said wings disposed toward/away from said sidewall? Which axis is said upper portions/lower portions referring to? Please positively state the above limitations so as to render a clear interpretation.

5. Claims 3 and 11 are objected to because of the following informalities:

a. Two limitations have been listed under (a) and (c). Please rewrite (c) to read as (b).

b. In current limitation (c), Line 2 – grammatical error.

c. The limitations are unclear and indefinite – the examiner requires elucidation regarding said wing-like elements. It is unclear which direction the shallow disposition is referring to. Are said wings disposed toward/away from said sidewall? Which axis is said upper portions/lower portions referring to? The examiner can easily interpret an inherent disposition with regards to said wing-like elements being contoured to extend laterally farther from said central portion (note the rejections below). Please positively state the above limitations so as to render a clear interpretation.

6. Claim 8 is objected to because of the following informalities: Limitation (d) is inherent – the examiner cannot think of another said use for the inwardly projecting flange of said cartridge other than for holding the accessories.

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7. Claim 12 is objected to because of the following informalities: Said "upper portion" lacks antecedent basis and renders the claim indefinite. Does the upper portion refer to the segment where the inwardly projecting flange is located or not?

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar et al. (U.S. Patent 6079992) in view of Sweet (U.S. Patent 2477705).

With regards to Claim 1, Kuchar discloses a track lighting fixture comprising of a media accessory cartridge having a circular side wall [Figures 12 and 13: (108)] and open bottom and top portions [Figures 12 and 13]; a plurality of flat, disk-like accessory elements [Figure 12: (106); Column 6, Lines 29-32]; whereby said side wall has a sufficient cross section to accommodate said accessory elements, and has a bottom support flange extending inwardly [Figures 12 and 13: (126); Column 6, Line 59].

Kuchar does not disclose a retainer clip element positioned within said sidewall of the media accessory cartridge, whereby said accessory elements are firmly secured.

Sweet discloses such a retainer clip element [Figure 1: (10)] disposed within a light housing [Figure 1: (1)] for maintaining a lens or other end closure members [Figure 1: (6); Column 1, Lines 1-7].

It would have been obvious to modify the media accessory cartridge of Kuchar to incorporate the retainer clip element of Sweet so as to provide a suitable means for retaining said accessory elements from displacement, rotation, etc. Kuchar corroborates: "media accessories 106 such as, for example, a colored filter, a lens, and a louver are axially spaced within a unitary media cartridge 108, and are retained therein by use of any suitable means such as a circular wire (not shown) received within the periphery of the cartridge [Column 6, Lines 30-35; underline added by examiner]."

With regards to structural design of said retainer clip, especially of a resilient member, it is considered negligible whereby the retainer element of Sweet is functionally equivalent. It should also be noted that Sweet's retainer clip element could have been easily configured to meet said limitations by simply removing the tabs [Figure 3: (12, 13)] and flipping said clip upside down in its use. The examiner considers such configuration a design preference and negligible given its application within said accessory cartridge (please further note rejection for Claim 2 in Paragraph 11 below).

10. With regards to Claim 5, Kuchar discloses a light fixture comprising of a main body portion [Figure 1: (6)], a front barrel portion [Figure 1: (2)], said front barrel portion is of tubular construction and is joined by a hinge [Figure 1: (82)]; and whereby an accessory cartridge is removably received in said front barrel portion [Figure 1; Column 6, Lines 47-67].

11. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar in view of Sweet as applied to Claim 1 above, and further in view of Bucher et al. (U.S. Patent 5971573).

With regards to Claim 2, Kuchar in view of Sweet teach an easily accessible accessory cartridge within a light fixture that further comprises of a retainer clip element, as described above in Paragraph 9. Said retainer clip member is designed with a contoured spring element that is separate from a sidewall portion of said cartridge [Figure 3: (14)], has a generally flat central portion disposed generally parallel to a central axis of said cartridge [Figure 3: (14)], affixed to said sidewall [Column 1, Lines 11-31], and formed of sheet metal [Column 1, Line 55].

Kuchar in view of Sweet does not specifically disclose a retainer clip member designed to comprise a pair of wing-like side elements.

Bucher discloses a spring element for a lamp fixture wherein it comprises a pair of wing-like elements [Figures 3A-3C: (212, 227)] extending laterally from opposite sides of a central portion [Figures 3A-3C: (220)]; disposed at a shallow angle with respect to said central portion or at points of contact whereby said two ends of said wing-like elements are projected onto a surface/wall [Figures 3A-3C]; and being contoured such that upper portions [Figure 3C: (216, 225)] thereof are spaced farther inward on a wall than lower portions [Figure 3C: (219, 221)], given that said central portion is flat against said wall.

It would have been obvious that the retainer clip element of Kuchar in view of Sweet could be replaced by the spring element of Bucher due to their functional equivalence. It is also obvious that said spring element of Bucher could easily be modified wherein the width of said wing-like elements are increased, and whereby said wings extend from left to right and disposed toward said sidewall. In this situation, as a

number of accessory elements are placed within an end of said cartridge, the spring element will be biased inwardly against said one or more accessory elements so as to prevent movement within said cartridge. Again, the examiner considers such configuration a design preference and negligible as long as a retaining member is provided wherein the accessories are firmly secured.

12. With regards to Claim 3, Bucher discloses said wing-like elements in the form of generally flat panels [Figure 3C: (216-218, 223-225)] disposed at a shallow angle to said central portion [Figure 3C: (218-219-200-221-223)]; whereby said wing-like elements are contoured to extend laterally farther from said central portion in upper portions of said side elements than in lower portions thereof [Figures 3A-3C: (212, 227)]; and whereby said upper portions are spaced farther inward from a sidewall than are lower portions when said spring element is disposed such that the wing elements are facing toward to contact said sidewall.

13. With regards to Claim 4, Sweet discloses a plurality of retainer clips mounted on a sidewall at circumferentially spaced locations thereon [Figure 2: (10)].

14. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar in view of Sweet as applied to Claim 5 above, and further in view of Maynard (U.S. Patent 2953970).

With regards to Claim 6, Kuchar in view of Sweet disclose a lighting fixture comprising of a front barrel portion and an accessory cartridge as described above in Paragraphs 9 and 10.

Kuchar in view of Sweet does not disclose said front barrel formed with an upwardly facing annular shoulder, and whereby said accessory cartridge is provided, in an upper portion thereof, with an outwardly extending flange arranged to be supported on said annular shoulder.

Maynard discloses a mount for an optical system component wherein there are an embedded number of optical elements attached whereby said optical elements providing an outwardly extending flange [Figure 3: (13, 31)] arranged to be supported on an upwardly facing annular shoulder [Figure 3: (18)].

It would have been obvious to modify the lighting fixture of Kuchar in view of Sweet to incorporate the support members for the optical elements of Maynard in order to provide appropriate spacing for said accessory cartridge within said tubular front portion, and thereby preventing a light bulb rupture when removing/attaching said cartridge. This is also commonly seen within the art whereby a flange is provided for a lens carrier/cover for ceiling fixtures/track lights.

15. With regards to Claim 7, Kuchar discloses a resilient means [Figures 12 and 13: (14, 17)] provided on at least one of an outer surface of an accessory cartridge and of an inner surface of a front barrel portion [Column 6, Lines 28-67].

16. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar et al. in view of Sweet.

With regards to Claim 8, Kuchar discloses a track lighting fixture comprising of a media accessory cartridge having a circular side wall [Figures 12 and 13: (108)] and open bottom and top portions [Figures 12 and 13]; a plurality of flat, disk-like accessory

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elements [Figure 12: (106); Column 6, Lines 29-32]; whereby said side wall has a sufficient cross section to accommodate said accessory elements; and a bottom support flange extending inwardly [Figures 12 and 13: (126); Column 6, Line 59] whereby it supports said accessory elements.

Kuchar does not disclose a retainer clip element positioned within said sidewall of the media accessory cartridge, whereby said accessory elements are firmly secured.

Sweet discloses such a retainer clip element [Figure 1: (10)] disposed within a light housing [Figure 1: (1)] for maintaining a lens or other end closure members [Figure 1: (6); Column 1, Lines 1-7].

It would have been obvious to modify the media accessory cartridge of Kuchar to incorporate the retainer clip element of Sweet so as to provide a suitable means for retaining said accessory elements from displacement, rotation, etc. Kuchar corroborates: "media accessories 106 such as, for example, a colored filter, a lens, and a louver are axially spaced within a unitary media cartridge 108, and are retained therein by use of any suitable means such as a circular wire (not shown) received within the periphery of the cartridge [Column 6, Lines 30-35; underline added by examiner]."

17. With regards to Claim 9, the structural design of said retainer clip, especially of a resilient member, is considered negligible whereby the retainer element of Sweet is functionally equivalent. It should also be noted that Sweet's retainer clip element could have been easily configured to meet said limitations by simply removing the tabs [Figure 3: (12, 13)] and flipping said clip upside down in its use. The examiner considers such

configuration a design preference and negligible given its application within said accessory cartridge.

18. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar in view of Sweet as applied to Claim 8 above, and further in view of Bucher et al. (U.S. Patent 5971573).

With regards to Claim 10, Kuchar in view of Sweet teach an easily accessible accessory cartridge within a light fixture that further comprises of a retainer clip element, as described above in Paragraph 16. Said retainer clip member is designed with a contoured spring element that is separate from a sidewall portion of said cartridge [Figure 3: (14)], has a generally flat central portion disposed generally parallel to a central axis of said cartridge [Figure 3: (14)], affixed to said sidewall [Column 1, Lines 11-31], and formed of sheet metal [Column 1, Line 55].

Kuchar in view of Sweet does not specifically disclose a retainer clip member designed to comprise a pair of wing-like side elements.

Bucher discloses a spring element for a lamp fixture wherein it comprises a pair of wing-like elements [Figures 3A-3C: (212, 227)] extending laterally from opposite sides of a central portion [Figures 3A-3C: (220)]; disposed at a shallow angle with respect to said central portion or at points of contact whereby said two ends of said wing-like elements are projected onto a surface/wall [Figures 3A-3C]; and being contoured such that upper portions [Figure 3C: (216, 225)] thereof are spaced farther inward on a wall than lower portions [Figure 3C: (219, 221)], given that said central portion is flat against said wall.

It would have been obvious that the retainer clip element of Kuchar in view of Sweet could be replaced by the spring element of Bucher due to their functional equivalence. It is also obvious that said spring element of Bucher could easily be modified wherein the width of said wing-like elements are increased, and whereby said wings extend from left to right and disposed toward said sidewall. In this situation, as a number of accessory elements are placed within an end of said cartridge, the spring element will be biased inwardly against said one or more accessory elements so as to prevent movement within said cartridge. Again, the examiner considers such configuration a design preference and negligible as long as a retaining member is provided wherein the accessories are firmly secured.

19. With regards to Claim 11, Bucher discloses said wing-like elements in the form of generally flat panels [Figure 3C: (216-218, 223-225)] disposed at a shallow angle to said central portion [Figure 3C: (218-219-200-221-223)]; whereby said wing-like elements are contoured to extend laterally farther from said central portion in upper portions of said side elements than in lower portions thereof [Figures 3A-3C: (212, 227)]; and whereby said upper portions are spaced farther inward from a sidewall than are lower portions when said spring element is disposed such that the wing elements are facing toward to contact said sidewall.

20. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar in view of Sweet as applied to Claim 8 above, and further in view of Maynard (U.S. Patent 2953970).

With regards to Claim 12, Kuchar in view of Sweet disclose a lighting fixture comprising an accessory cartridge as described above in Paragraph 16.

Kuchar in view of Sweet does not disclose said accessory cartridge having an outwardly extending annular flange.

Maynard discloses a mount for an optical system component wherein there are an embedded number of optical elements attached whereby said optical elements providing an outwardly extending flange [Figure 3: (13, 31)] arranged to be supported on an upwardly facing annular shoulder [Figure 3: (18)].

It would have been obvious to modify the lighting fixture of Kuchar in view of Sweet to incorporate the support members for the optical elements of Maynard in order to provide appropriate spacing and support for said accessory cartridge within a light fixture, and thereby preventing a light bulb rupture when removing/attaching said cartridge. This is also commonly seen within the art whereby a flange is provided for a lens carrier/cover for ceiling fixtures/track lights.

21. With regards to Claim 13, Kuchar discloses a light fixture comprising of a main body portion [Figure 1: (6)], a front barrel portion [Figure 1: (2)], said front barrel portion is of tubular construction and is joined by a hinge [Figure 1: (82)]; and whereby an accessory cartridge is removably received in said front barrel portion [Figure 1; Column 6, Lines 47-67].

22. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuchar in view of Sweet as applied to Claim 13 above, and further in view of Maynard (U.S. Patent 2953970).

With regards to Claim 14, Kuchar in view of Sweet disclose a lighting fixture comprising of a front barrel portion and an accessory cartridge as described above in Paragraphs 16 and 21.

Kuchar in view of Sweet does not disclose said front barrel formed with an upwardly facing annular shoulder, and whereby said accessory cartridge is provided, in an upper portion thereof, with an outwardly extending flange arranged to be supported on said annular shoulder.

Maynard discloses a mount for an optical system component wherein there are an embedded number of optical elements attached whereby said optical elements providing an outwardly extending flange [Figure 3: (13, 31)] arranged to be supported on an upwardly facing annular shoulder [Figure 3: (18)].

It would have been obvious to modify the lighting fixture of Kuchar in view of Sweet to incorporate the support members for the optical elements of Maynard in order to provide appropriate spacing for said accessory cartridge within said tubular front portion, and thereby preventing a light bulb rupture when removing/attaching said cartridge. This is also commonly seen within the art whereby a flange is provided for a lens carrier/cover for ceiling fixtures/track lights.

23. With regards to Claim 15, Kuchar discloses a resilient means [Figures 12 and 13: (14, 17)] for removing/retaining said cartridge within said front barrel portion [Column 6, Lines 28-67].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

The following patents are cited to further show the state of the art pertinent to the current application:

U.S. Patent 4321659 to Wheeler;

U.S. Patent 2587423 to Young;

U.S. Patent 6203173 to Duff et al.;

U.S. Patent 2465248 to McCandless;

U.S. Patent 4310875 to Price;

U.S. Patent 2785291 to Bernstein;

U.S. Patent 4745533 to Smerz;

U.S. Patent 4709311 to Bornhorst;

U.S. Patent 4593344 to Basile.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800